

## **REMARKS**

### **Overview**

The claims now in the case are currently amended claim 25, claims 26-31, currently amended claim 32, claims 33, 37-40, currently amended claim 41, claims 42-47 and newly added independent claim 48. Although not incorrect, the remainder of the claims have been amended to change the spelling of certain words to the U.S. spelling.

A Rule 132 Declaration of the inventor in support of non-obviousness, following the Graham v. Deere, 383 US1 (1966) factors is enclosed. It addresses the prior art problem in paragraphs 6, 28, the inventors new approach in paragraph 9; his solution in paragraphs 10 and 11; the invention's advantages in paragraphs 11-13; commercial success in paragraph 15; praise of others in paragraph 17 and Appendix 1, and test comparisons to the state of the art in paragraphs 18-19 and Appendix 2.

### **Claim Rejections Under 35 U.S.C. § 102**

Claims 25-36, 38, and 40-46 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,274,158 to Pogorski.

With regard to the final rejection over Pogorski '158, the main point is that the provision of the wool layer in the diving suit in the invention provides significant advantage in terms of the provision of a non compressible thermal barrier when it retains the liquid therein and provides this barrier in a relatively simple manner when compared to Pogorski '158. In Pogorski '158 the thermal barrier, referred to as insulating material, is achieved by using a "multiplicity of layers of a flexible stretchable material, said layers including a central core consisting of a gas permeable layer" col 3 lines 6-7. Two further layers are provided which sandwich the core therebetween

and said layers are gas impermeable with the core is also provided with sealable closure means to enable the same to be selectively placed under a sub-atmospheric or superatmospheric pressure to provide the insulating effect col. 3 lines 31-38. Thus the aim in Pogorski is to provide insulation by the provision of a relatively complex multilayer structure and to have to provide control means for control of the condition of the same. None of this structure is required in the current invention or called for in the claims for the thermal barrier effect to be provided.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 37, 39, and 47 have been rejection under 35 U.S.C. § 103(a) as being unpatentable over Pogorski '158.

In Pogorski '158 consideration is given to the comfort of wearing the suit and so two layers, in addition to the insulation material structure are suggested. Pogorski '158 states that these layers are preferably made from knitted nylon fabric col. 5 lines 33-35. He then suggests that cotton or wool could be used as alternatives. These can only be provided as interchangeable alternative materials as, in Pogorski '158, the inner and outer layers are provided for comfort factors not to provide the required insulation characteristics. The insulation quality of the nylon, cotton or wool, is irrelevant in Pogorski '158 as the insulation is already provided by the insulation material multilayer structure. Furthermore, there is no suggestion in Pogorski '158 that the use of wool as opposed to cotton or nylon, or a mix of the same, to form an outer or inner layer of the suit would have any impact on the formation of the insulation material structure of the suit. Indeed Pogorski '158 or the skilled person reading Pogorski '158, would not expect there to be any change to the requirements of the insulation material structure as the materials for the outer or inner layers are chosen for comfort requirements rather than insulation or thermal

barrier requirements. In Pogorski '158 it is always the case that the insulation material structure layers 20, 14, 15, 16 and 18 and control means 22 are required to be provided as shown in Figure 3, to provide the suit with the required insulation characteristics. In the current invention no insulation structure of multi layers is required and instead the applicants have realised that by providing an inner layer formed with wool within the specific parameters set out in the independent claims a non-compressible thermal barrier is provided which allows the need for an insulation characteristics structure of Pogorski '158 to be dispensed with. It is also clear that the thermal properties of this inner layer of the current invention cannot be recreated by using cotton, nylon or any other material as would be suggested if one adopted the teaching of Pogorski '158 in relation to the outer or inner layers of their suit and as a result the teaching of Pogorski '158 cannot justifiably be said to teach to the wet or dry suit as now set out in the claims submitted.

Furthermore, the suggestion by the examiner that the teaching of Pogorski '158 of the possible provision of comfort characteristics achieved by using nylon or alternatively cotton or wool would suggest to the person skilled in the art of a possibility of providing the significant thermal barrier effect of the current invention by specifically using one of those materials only and in a specific manner only is not supportable, especially when Pogorski '158 teaches that the said nylon, cotton or wool would have to be used in combination with a multilayered insulation material structure to provide the thermal barrier. There is no teaching or suggestion that the nylon, cotton or wool could be used as an alternative to, or even alter, the insulating material structure.

Applicants have made a sincere effort to amend the claims to accommodate the Examiner's concerns as expressed in the interview of November 18, 2008. In particular, more structure, and less functional language reliance is apparent from the provided amendments.

## **Conclusion**

It is respectfully submitted that all matters raised in the Final Rejection have been addressed and remedied and that the application is in form for allowance. Favorable action is respectfully requested.

This Amendment accompanies a Request for Continued Examination (RCE). Please charge Deposit Account No. 26-0084 the amount of \$405.00 per the attached Request for Continued Examination Transmittal.

Please consider this a Request for three-month extension of time from December 10, 2008 to March 10, 2009 and charge Deposit Account No. 26-0084 the amount of \$555.00 for this extension. No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



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Attachment: Rule 132 Declaration of John Gordon